

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

SANTOKN JUDGE,
Plaintiff,
v.

STATE OF CALIFORNIA, et al.,
Defendants.

Case No. 21-cv-07018-EJD

**ORDER TO SHOW CAUSE WHY
ACTION SHOULD NOT BE
DISMISSED**

On September 10, 2021, Defendants City of Sunnyvale and City Manager Kent Steffens removed the present case to this Court from the Superior Court of the State of California, County of Santa Clara. ECF No. 1. The Notice of Removal was served the same day on Plaintiff's counsel James A. Otto by letter mail and e-mail. ECF No. 4. On September 17, 2021, four Defendants filed two Motions to Dismiss, ECF Nos. 11, 13, which set the deadline for Plaintiff's opposition on October 1, 2021. Civil L.R. 7-3(a). To date, Plaintiff has not filed any opposition to the pending motions to dismiss, despite being served through the Court's ECF system, nor has he sought any relief from the Court in the seven months following the lapse of the opposition deadline. Counsel for the City of Sunnyvale and Steffens had also contacted Plaintiff's counsel on October 3 regarding Plaintiff's absent opposition but received no response. ECF No. 15. Plaintiff's counsel appears to have subsequently communicated with Defendants' counsel to join the Stipulation to Continue the Initial Case Management, filed on November 18, 2021. ECF No. 17. Defendants represent that the email address used to confer with Plaintiff's counsel regarding the Stipulation is the same one associated with Plaintiff's counsel on ECF. ECF No. 16, at 2.

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The Court possesses the inherent power to dismiss an action *sua sponte* “to achieve the orderly and expeditious disposition of cases.” *Link v. Wabash R.R. Co.*, 370 U.S. 626, 629–33 (1962). Furthermore, a failure to oppose a dispositive motion raises the issue of whether this action should be dismissed for failure to prosecute under Rule 41(b). Fed. R. Civ. P. 41(b); *see also Yap v. PNC Bank, N.A.*, No. 18-CV-07618-NC, 2019 WL 2183383, at *2 (N.D. Cal. Mar. 6, 2019), report and recommendation adopted, No. 5:18-CV-07618-EJD, 2019 WL 2180219 (N.D. Cal. Mar. 25, 2019) (*citing Pagtalunan v. Galaza*, 291 F.3d 639, 642 (9th Cir. 2002)).

Plaintiff is directed to file a written response to this order by **June 13, 2022**, and to appear before the Court on **June 23, 2022, at 10:00 a.m.** and show cause why this action should not be dismissed with prejudice for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). If Plaintiff fails to file a written response by the above deadline, the Court will dismiss the action with prejudice pursuant to Federal Rule of Civil Procedure 41(b).

Given Plaintiff’s lack of opposition and this Order, the hearings for Defendants’ Motions to Dismiss scheduled for June 2 will be vacated.

IT IS SO ORDERED.

Dated: May 27, 2022.



EDWARD J. DAVILA
United States District Judge